IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Crl.MC.No. 3412 of 2007()

AGAINST THE ORDER DATED 23.11.2006 IN CC.603/2004 IN CC.416/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD

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PETITIONER: 1ST ACCUSED:

ABHILASH @ SREEKUMAR, AGED 36 YEARS,
S/O. SARANGADHARAN, AKSHRA, PAZHAVEEDU, ALAPPUZHA.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENT: STATE & COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
WALAYAR POLICE STATION (CRIME NO.240/04 NOW REGISTERED AS CC NO.603/2004), REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY P.P.SRI.P. RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No. 3412 of 2007

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Dated this the 15th day of November, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 420 and 411 IPC. The alleged incident took place in 2004. Altogether there were two accused persons. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. In the trial, which was held before the learned Magistrate, the 2nd accused was found not guilty and acquitted. The petitioner was not available for trial. The case against him was split up. The same is now refiled and is pending before the learned Magistrate as C.C.No. 416/2006. The petitioner has not entered appearance so far. Coercive processes have been issued by the learned Magistrate against the petitioner to procure his presence. The petitioner finds the warrant of arrest issued by the learned Magistrate chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful. He is willing to surrender before the learned Magistrate but he apprehends that his application for bail may not be considered by the learned Magistrate, in accordance with law and expeditiously. He

therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C. is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE